

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HEATHER GAINES,

Plaintiff,

v.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

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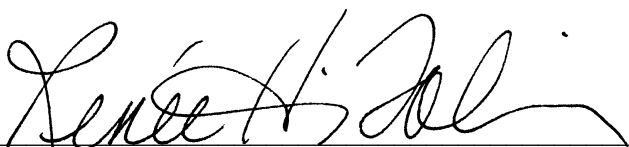
Civil Action No. 3:10-CV-859-K-BK

FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Pursuant to *Special Orders* 3-251 and 3-283, this case has been referred to the undersigned for Findings, Conclusions, and Recommendation. On July 30, 2010, Plaintiff filed her *Motion for Summary Judgment* (Doc. 15). On September 27, 2010, the Commissioner filed a *Motion to Remand to Social Security Administration*, seeking a remand of the case pursuant to the fourth sentence of 42 U.S.C. § 405(g), so that the administrative law judge could conduct a new hearing and issue a new decision. (Doc. 20).

The Commissioner represents that Plaintiff opposes his *Motion to Remand*, but Plaintiff has not filed a response. Because the Commissioner's *Motion to Remand* is unopposed, it is recommended that the motion be **GRANTED** and that the case be reversed and remanded for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g). Accordingly, Plaintiff's *Motion for Summary Judgment* (Doc. 15) should be **DENIED AS MOOT**.

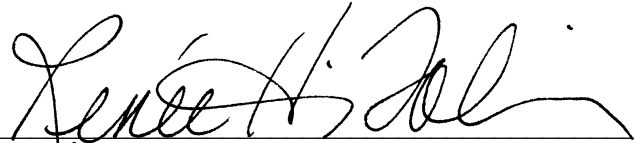
SIGNED ON November 2, 2010.



RENÉE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of these findings, conclusions and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of these findings, conclusions and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's findings, conclusions and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Servs. Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

A handwritten signature in black ink, appearing to read 'Renée H. Toliver', written over a horizontal line.

RENÉE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE